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LEONARD *v.* VAUGHAN & CO.

June 10, 1915.

[85 S. E. 471.]

Brokers (§ 65*)—Right to Commission—Defect in Title.—Where one purchasing in reliance on the statements of the real estate agents as to the title to the property and its boundaries, and their assurance that they could make a quick sale of the property as they represented it to him, listed the land with the same agents, and they procured a purchaser who refused to complete the purchase because of a defect in the title, the principal, the original purchaser, was not liable for a commission, though he afterwards sold the land at a profit subject to the defect; the rule that real estate agents may act on the assumption that the owner can tender a title free from infirmities not applying where the facts are such that the ordinary presumption of knowledge by the owner and of his guaranty in favor of the agents cannot be implied.

[Ed. Note.—For other cases, see *Brokers*, Cent. Dig. §§ 48-50; Dec. Dig. § 65.* 2 Va.-W. Va. Enc. Dig. 640; 14 Va.-W. Va. Enc. Dig. 176; 15 Va.-W. Va. Enc. Dig. 145.]

Error to Hustings Court of City of Richmond.

Action by Vaughan & Co. against Thomas B. Leonard. From judgment for plaintiffs, defendant brings error. Reversed, and remanded for new trial.

McGuire, Riley, Bryan & Eggleston, of Richmond, for plaintiff in error.

Gunn & Mathews and *W. M. Justis, Jr.*, all of Richmond, for defendants in error.

CARNER *v.* MIDDLEKAUF et al.

June 10, 1915.

[85 S. E. 473.]

1. Fraudulent Conveyances (§ 277*)—Action to Set Aside—Burden of Proof—Husband and Wife.—Where, in a suit by creditors of C. to set aside as fraudulent a conveyance to C.'s wife and M. and a subsequent conveyance from M. of her undivided one-half interest to C.'s wife, the evidence showed that C. was insolvent, and that the stock traded for the land belonged to C. and remained in his name until transferred to the original grantor in payment for the land, the burden was on his wife to show that she, in good faith, furnished the consideration from her own, and not from her husband's means.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Dig. §§ 799, 809-814; Dec. Dig. § 277.* 6 Va.-W. Va. Enc. Dig. 585; 14 Va.-W. Va. Enc. Dig. 487; 15 Va.-W. Va. Enc. Dig. 438, 439.]

2. Fraudulent Conveyances (§ 300*)—Action to Set Aside—Sufficiency of Evidence—Husband and Wife.—Evidence, in an action by creditors of C. to set aside as fraudulent conveyances to C.'s wife, it being contended that the consideration was furnished by C., held insufficient to sustain the burden resting on C.'s wife to prove that she furnished the consideration from her own, and not from her husband's, means.

[Ed. Note.—For other cases, see Fraudulent Conveyances, Cent. Dig. §§ 896-603; Dec. Dig. § 300.* 6 Va.-W. Va. Enc. Dig. 584; 14 Va.-W. Va. Enc. Dig. 487; 15 Va.-W. Va. Enc. Dig. 439.]

3. Fraudulent Conveyances (§ 181*)—Fraudulent Grantee—Liability for Amount of Incumbrances.—Where a fraudulent grantee, the wife of the debtor, borrowed money, giving a deed of trust on the land as security therefor, she was liable to the creditors for the amount of such incumbrance.

[Ed. Note.—For other cases, see Fraudulent Conveyances, Cent. Dig. §§ 554-559, 561-567; Dec. Dig. § 181.* 6 Va.-W. Va. Enc. Dig. 629; 14 Va.-W. Va. Enc. Dig. 492; 15 Va.-W. Va. Enc. Dig. 441.]

Appeal from Law and Chancery Court of City of Norfolk.

Suit by one Middlekauf and others against M. F. Carner. From decree for complainants, defendant appeals. Affirmed.

R. R. Hicks, of Norfolk, for appellants.

Wingfield & Hoag and *L. P. Matthews*, all of Norfolk, for appellee.

JOHNSON *v.* JOHNSON.

June 10, 1915.

[85 S. E. 475.]

Divorce (§ 37*)—Actions—Desertion.—Where a husband abandoned his wife continuously for more than three years, with the declared purpose of not returning to her, during which time he did not cohabit with her, made no effort to resume marital relations and contributed nothing to her support, there was such a desertion as entitled the wife to a divorce under Code 1904, § 2257, authorizing divorce for three years' desertion.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 27, 107-134, 136-138; Dec. Dig. § 37.* 4 Va.-W. Va. Enc. Dig. 738; 14 Va.-W. Va. Enc. Dig. 346; 15 Va.-W. Va. Enc. Dig. 299.]

Appeal from Circuit Court of City of Norfolk.

Bill by Essie H. Johnson against Eugene W. Johnson. From a decree denying divorce, complainant appeals. Reversed.

E. A. Bilisoly, of Norfolk, for appellant.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.